

REMARKS

Claims 1-3, 7-9, 13, 14 and 16 have been rejected under 35 U.S.C. § 103 based on the combination of Happ U.S. Patent No. 2,487,706 and Hook U.S. Patent No. 5,692,809. It is the position of the Examiner that it would be obvious to substitute the wheels of the in-line skates of Hook for the wheels of the creeper of Happ. Applicant, however, believes that such is an improper application of 35 U.S.C. § 103 based on the following discussion.

It is the belief of the Applicant that no creeper has ever been provided with wheels configured as in the present application. Creeper wheels have always had a flat profile in that it was believed that because they swivelled, flat wheels were much more desirable, if not mandatory. As a result, there is no suggestion in the references to make the substitution now deemed obvious by the Examiner. Hook makes it clear that his wheels are only for in-line applications. The wheels of a caster on a creeper which swivels are not in-line wheels, and one would never consider using a wheel designed for in-line use on a creeper. Claim 1 has been amended to make it clear that non-in-line wheels are intended, and since the art does not suggest the combination, claim 1, and the claims which depend therefrom, should be in condition for allowance. Reconsideration by the Examiner is requested.

Independent claim 7 has been amended to combine the features of the wheel of the present invention with other features which were claimed in dependent claims 14 and 15. While claim 14 was rejected based on the Happ/Hook combination, and claim 15 was rejected on the Happ/Hook combination in addition to Jarvis U.S. Patent No. 1,882,497, since claims 14 and 15 were not in the same chain of dependency, claim 7 is now of a scope not previously considered by the Examiner.

Assuming that the Examiner would find these three references relevant to amended claim 7, Applicant has considered those references and believes that claim 7 is allowable over them. Even if it were proper to put the Hook wheel on the Happ creeper, and even if the Jarvis caster assembly were to carry the Hook wheel, the recitations of claim 7 would not be present. No reference suggests that the top race of the top bearing bracket lies wholly within the vertical profile of the side rail. In fact, the primary reference, Happ, suggests

(14), and no bearing around axle (12) is even disclosed. Thus, it would be impossible for Doyle et al. to suggest the material for a non-existent bearing.

Claims 6 and 12 were rejected as obvious in view of the Happ/Hook/Doyle et al. combination further in view of Block U.S. Patent No. 4,034,434. However, not only is Block totally non-analogous art, but also its teachings are not relevant to these claims. These claims require a Shore D hardness of the wheel body in the range of 65 to 85 for proper mobility when in contact with the floor. The durometer of the portions of the wheel of Block in contact with the floor, however, is a Shore A 40/50. Thus, no reference or combination thereof, teaches creeper wheels having a 65-85 Shore D hardness.

In view of the foregoing discussion and amendments, it is believed that claims 1-13 and 16-19 are in condition for allowance. Reconsideration by the Examiner and the issuance of a Notice of Allowance of these claims is respectfully requested.

Attached hereto is a marked-up version of the changes made to the Application by this Amendment.

If any further issues remain after this amendment, a telephone call to the undersigned would be appreciated.

Respectfully submitted,



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VERSION WITH MARKINGS TO SHOW CHANGES MADE

In the Claims:

- 1    1. (Amended) A creeper comprising opposed side rails; a pad supported between said side rails; and a plurality of caster assemblies [attached] rotatable on a vertical axis relative to said side rails and supporting said side rails; each of said plurality of caster assemblies including a wheel having a wheel body with a radial surface wherein the width of the contact between said radial surface and a work surface upon which the creeper is placed is from about 50 to about 75 percent of the maximum width of said wheel body.
- 1    2. (Amended) A creeper according to claim 1 wherein each said wheel of said plurality of caster assemblies further comprises a hub having [including] an axial bore, an inner rim proximate said axial bore, and an outer rim distanced from said inner rim by radial supports.
- 1    7. (Amended) A creeper comprising opposed side rails; a pad supported between said side rails; said side rails having a top and bottom surface, said top surface tapering toward said bottom surface to define a decreased cross section of said side rails, the decreased cross section of said side rails being positioned adjacent said pad; and a plurality of caster assemblies attached to and supporting said side rails; each of said plurality of caster assemblies including a wheel [comprising] including a wheel body extending, in hemispherical or semi-elliptical cross section, from a hub, and a top bearing bracket a top bearing bracket having a top race, said top bearing bracket being attached to one of said side rails such that said top race of said top bearing bracket lies wholly within the vertical profile of said side rail.

Cancel claims 14 and 15 without prejudice or disclaimer.

1       17. (Amended) A creeper according to claim 16 wherein said caster  
2       assemblies each include [a top bearing bracket having a top race, and] a  
3       bottom bearing bracket having a bottom race; a wheel assembly carrying  
4       said wheel and connected to said caster assembly between said top and  
5       bottom bearing brackets; top rolling elements retained within said top  
6       race between said top bearing bracket and a portion of said wheel  
7       assembly; and bottom rolling elements retained within said bottom race  
8       between said bottom bearing bracket and a portion of said wheel  
9       assembly.